

AN ORDINANCE approving Street Improvement Resolution No. 5959-82, Resurfacing & Restoring Pavement, with Wayne Asphalt & Construction Company, Inc., in connection with the Board of Public Works.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

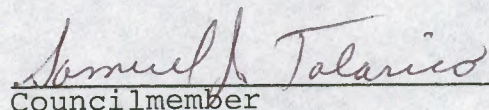
SECTION 1. That a certain Contract dated December 8, 1982, between the City of Fort Wayne, Indiana, by and through its Mayor and the Board of Public Works, and Wayne Asphalt & Construction Company, Inc., for:

the resurfacing and restoring pavement as designated on the following streets:

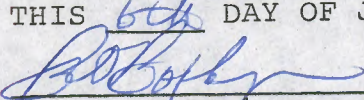
- (1) Calhoun Street - from the south pavement line of paulding Road to the North pavement line of Tillman Road;
- (2) North Washington Road - from the south property line of Taylor Street to the North property line of Covington Road;
- Alternate (3) Fairfield Avenue - from the south curb line of Jefferson Boulevard to the south property line of Lavina Street;

under Board of Works Street Improvement Resolution No. 5959-82, involving a total cost of One Hundred Seventeen Thousand Nine Hundred Forty-Seven and 85/100 Dollars (\$117,947.85), all as more particularly set forth in said Resolution and Contract, and which is on file with the Office of the Board of Public Works and is, by reference, incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed, and approved. Two copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor.


Councilmember

APPROVED AS TO FORM AND LEGALITY
THIS 6th DAY OF JANUARY, 1983.


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Talarico, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____ .M., E.S.T.

DATE: 1-11-83

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Talarico, seconded by GiaQuinta, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 1-25-83

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. S-24-83 on the 25th day of January, 1983.

ATTEST:
Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

(SEAL)
Ray A. Ebert
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of January, 1983, at the hour of 11:30 o'clock A. .M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 26th day of Jan. 1983, at the hour of 4 o'clock P .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

72-157-31

SUBJECT TO COUNCILMANIC APPROVAL
PRELIMINARY MEETING 1-11-82
RATIFICATION 1-25-83

CONTRACT

This Agreement, made and entered into this 8 day of December, 1982

by and between ----- WAYNE ASPHALT AND CONSTRUCTION COMPANY, INC. -----

----- 6600 Ardmore Avenue, Fort Wayne, Indiana 46809 -----

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve

by resurfacing and restoring pavement as designated on the following streets:
(1) CALHOUN ST. - From the south pavement line of Paulding Rd. to the north pavement line of Tillman Rd.; (2) N. WASHINGTON RD. - From the south property line of Taylor St. to the north property line of Covington Rd.
ALTERNATE *** (3) FAIRFIELD AVE. - From the south curb line of Jefferson Blvd. to the south property line of Lavina St.

by grading and paving the roadway to a width of XXXXXXXXXXXXXXXXXXXX feet with XXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5959-82 attached hereto and by reference made a part hereof.

At the following prices:

Pavement Removal	One dollar and ten cents per square yard	1.10
H.A.C. #9 Binder	Twenty dollars and no cents per ton	20.00
H.A.C. #11 Binder	Twenty-one dollars and no cents per ton	21.00
H.A.C. A-2 Surface	Twenty-three dollars and fifty cents per ton	23.50
Joint & Crack Sealer	Five hundred dollars and no cents per ton	500.00
C.B.'s - Adjust & Set to Grade	One hundred and twenty-five dollars and no cents per each	125.00
#53 Crushed Stone	Twelve dollars and no cents per ton	12.00
Manholes - Adjust & Set to Grade	One hundred and ten dollars and no cents per each	110.00
Water Valves - Adjust & Set to Grade	Forty-eight dollars and no cents per each	48.00

Continued

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5959-82 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally
See Liquidated Damages Provision
and in all respects completed on or before ***, 1987 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said

***, 1987 until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 8
day of December, 1987

ATTEST:

C. L. Quinn
Corporate Secretary

WAYNE ASPHALT AND CONSTRUCTION CO., INC.

BY:

Darvin D. Tomes
ITS: DARVIN D. TOMES, SALES MGR.

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

Wm Anderson Jr

Betty R. Collins

Its Board of Public Works and Mayor.

ATTEST:

Sandra E. Kennedy
Secretary and Clerk

Standard C.B.'s (Complete In Place)	One thousand and twenty-five dollars and no cents per each	1,025.00
Topsoil	Ten dollars and fifty cents per ton	10.50
Seeding, Mulch & Fertilizer	No dollars and forty-five cents per square yard	0.45
BASE SUB-TOTAL	One hundred thousand, nine hundred and eighty-eight dollars and thirty-five cents	100,988.35
*** ALTERNATE ***		
Pavement Removal	One dollar and ten cents per square yard	1.10
H.A.C. #9 Binder	Twenty dollars and no cents per ton	20.00
H.A.C. #11 Binder	Twenty-one dollars and no cents per ton	21.00
H.A.C. A-2 Surface	Twenty-three dollars and fifty cents per ton	23.50
Joint & Crack Sealer	One thousand dollars and no cents per ton	1,000.00
C.B.'s - Adjust & Set to Grade	One hundred and twenty-five dollars and no cents per each	125.00
Manholes - Adjust & Set to Grade	One hundred and ten dollars and no cents per each	110.00
Standard C.B.'s (Complete In Place)	One thousand and twenty-five dollars and no cents per each	1,025.00
Water Valves - Adjust & Set to Grade	Forty-eight dollars and no cents per each	48.00
ALTERNATE SUB-TOTAL	Sixteen thousand, nine hundred and fifty-nine dollars and fifty cents	\$16,959.50
TOTAL	One hundred and seventeen thousand, nine hundred and forty-seven dollars and eighty-five cents	\$117,947.85

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.)

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we WAYNE ASPHALT & CONSTRUCTION CO., INC.,
as Principal, and the United States Fidelity & Guaranty Co.

_____, a corporation organized under the laws of the
State of Maryland, and duly authorized to transact business in the
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,
Indiana, an Indiana Municipal Corporation in the sum of ONE HUNDRED AND SEVENTEEN
THOUSAND, NINE HUNDRED AND FORTY-SEVEN DOLLARS AND EIGHTY-FIVE CENTS -----

(\$ 117,947.85-----), for the payment whereof well and truly to be made,
the Principal and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents. The
condition of the above obligation is such that

WHEREAS, the Principal did on the 6 day of December, 1982,
enter into a contract with the City of Fort Wayne to ~~construct~~

Improvement Resolution No. 5959-82

improve by resurfacing and restoring pavement as designated on the following streets:

- (1) CALHOUN ST. - From the south pavement line of Paulding Rd. to the north pavement line of Tillman Rd.;
- (2) N. WASHINGTON RD. - From the south property line of Taylor St. to the north property line of Covington Rd.

ALTERNATE ***

- (3) FAIRFIELD AVE. - From the south curb line of Jefferson Blvd. to the south property line of Lavina St.

at a cost of \$ 117,947.85-----, according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

WAYNE ASPHALT & CONSTRUCTION CO. INC.
(Contractor)

BY:

ITS: DARVIN D. JONES, SALES MGR.

ATTEST:

Donna J. Green
(Title)

United States Fidelity & Guaranty Co.
Surety

*BY:

Leonard Shirley
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- WAYNE ASPHALT AND CONSTRUCTION COMPANY, INC. -----
(Name of Contractor)

----- 6600 Ardmore Avenue, Fort Wayne, Indiana 46809 -----
(Address)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and United States Fidelity & Guaranty Co.
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of ONE HUNDRED AND SEVENTEEN THOUSAND, NINE HUNDRED AND FORTY-SEVEN DOLLARS AND EIGHTY-FIVE CENTS ----- for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 8 day of December, 1982, for the construction of:

Improvement Resolution No. 5959-82

To improve by resurfacing and restoring pavement as designated on the following streets:

- (1) CALHOUN ST. - From the south pavement line of Paulding Rd. to the north pavement line of Tillman Rd.;
- (2) N. WASHINGTON RD. - From the south property line of Taylor St. to the north property line of Covington Rd.

ALTERNATE***

- (3) FAIRFIELD AVE. - From the south curb line of Jefferson Blvd. to the south property line of Lavina St.

at a cost of ONE HUNDRED AND SEVENTEEN THOUSAND, NINE HUNDRED AND FORTY-SEVEN DOLLARS AND EIGHTY-FIVE CENTS -----
(\$117,947.85-----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3 counter-
(number)
parts, each one of which shall be deemed an original, this 8th day of
December, 1982.

(SEAL)

ATTEST:

(Principal) Secretary

Witness as to Principal

(Address)

Steve J. Green

Witness as to Surety

(Address)

WAYNE ASPHALT & CONSTRUCTION CO., INC.
Principal

BY Darvin D. Tomes

DARVIN D. TOMES, SALES MGR.
(Title)

(Address)

United States Fidelity & Guaranty Co.
Surety
BY Edward Shirley

Attorney-in-Fact
(Authorized Agent)

(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

BILL NO. S-83-01-08

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving Street Improvement Resolution No. 5959-82,
Resurfacing & Restoring Pavement, with Wayne Asphalt & Construction
Company, in connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

Samuel J. Talarico

VICTURE L. SCRUGGS, VICE CHAIRMAN

Victure L. Scruggs

MARK E. GIAQUINTA

Mark E. Giaquinta

PAUL M. BURNS

Paul M. Burns

ROY J. SCHOMBURG

Roy Schomburg

1-25-83

CONCURRED IN

DATE CHARLES W. WESTERMAN, CITY CLERK

TITLE OF ORDINANCE Contract for Res. #5959-82 with Wayne Asphalt & Const. Co., Inc.

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

2-23-01-08

SYNOPSIS OF ORDINANCE Resurfacing and restoring pavement as designated on the
following streets: (1) CALHOUN ST. - from the south pavement line of
Paulding Rd. to the north pavement line of Tillman Rd.; (2) N. WASHINGTON RD. -
from the south property line of Taylor St. to the north property line of
Covington Rd. ALTERNATE*** (3) FAIRFIELD AVE. - From the south curb line of
Jefferson Blvd. to the south property line of Lavina St. Contract for Res. 5959-82
with Wayne Asphalt & Construction Company, Inc.

EFFECT OF PASSAGE Improvement of above area.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$117,947.85

ASSIGNED TO COMMITTEE